

### **Remarks**

This paper is responsive to the Office Action mailed September 1, 2005.

Reconsideration of the subject application is respectfully requested based on the Amendments and Remarks.

Original independent claims 1, 19 and 38 were amended and care has been exercised to avoid the introduction of new matter.

Claims 1-26 and 28-55 remain in this application.

### **Objections**

The Examiner pointed out that claim 27 is nonexistent in the original claims. Applicants have amended the claim numbering to correct the error.

### **35 U.S.C. §112, 1<sup>st</sup> Paragraph Rejections**

Claims 1-26 and 28-55 are rejected under 35 U.S.C. §112, 1<sup>st</sup> paragraph because the Examiner believes “the specification, while being enabling for accepting forms containing performance information, does not reasonably provide enablement for performance information as a function of ‘uniform data definitions’ or for sorting said performance data ‘as a function of an are of interest.’”

In response to the 35 USC 112, 1<sup>st</sup> paragraph rejections of claims 1-26 and 28-55, the Applicants would like to point out to the Examiner that paragraphs [0026] and [0009], for example, provide enablement for “the system accepting a plurality of forms from a plurality of sites, each of the forms including performance information as a function of uniform data definitions” and “the system storing the performance information in a database as a function of an area of interest of the performance information.”

Paragraph [0009] teaches “pre-planned reporting requirements that require reporting of specific information at specific times by a predetermined schedule to ensure capturing of key performance indicators and consistency in data reporting by operating as a global application requiring the same data from all reporting locations using the same definitions.” Applicants believe that the written description enables any person skilled in the art to make and use the invention. Particularly, the written description enables any

person skilled in the art to make and use the step of “the system accepting a plurality of forms from a plurality of sites, each of the forms including performance information as a function of uniform data definitions.”

Paragraph [0026] teaches, for example, that a form is used to report performance information from each site. The performance information is entered into its corresponding database. For example, a toxic chemical release inventory (TCRI) database with a corresponding form, requires the reporting facility provide data on various related areas of interest, such as annual use of a chemical and amount of chemical released into the air. The data is stored in the TCRI database. Applicants believe that the written description enables any person skilled in the art to make and use the invention. Particularly, paragraph [0026] of the written description enables any person skilled in the art to make and use the step of “the system storing the performance information in a database as a function of an area of interest of the performance information.”

The Applicants believe that the written description enables any person skilled in the art to make and use the invention commensurate of the claims and withdrawal of the rejections under 35 U.S.C. §112, 1<sup>st</sup> paragraph of claims 1-26 and 28-55 is requested.

### **35 U.S.C. §103(a) Rejection**

The Examiner rejects claims 1-6, 9-13, 15-24, 28-32, 34-43, 46-50 and 52-55 under 35 U.S.C. §103 (a) as being unpatentable over Beldock (U.S. 6,490,565) (“Beldock”).

With respect to claim 1, Applicants amend the claim in an effort to make the claim clearer. Amended claim 1 does not represent new matter and is based on subject matter in the specification as filed, which is discussed in detail below.

Amended independent claim 1 recites as follows:

1. A method for monitoring environmental performance information and providing notification when the performance information indicates performance reaching a predetermined level, the method comprising the steps of:

a program administrator setting performance criteria to capture performance information at specific times by a predetermined schedule in a system;

the system accepting a plurality of forms from a plurality of sites at specific times by the predetermined schedule, each of the forms including instructions, definitions and performance information as a function of uniform data definitions;

the system storing the performance information in a database as a function of an area of interest of the performance information;

the system monitoring the performance information for conformance with the performance criteria as it is stored and flagging the performance information that does not conform with the performance criteria so that a report can be generated, either automatically or manually, as a function of at least a portion of the currently stored performance information;

the system providing notification when the performance information deviates from the performance criteria.

The Applicants amended the preamble to include “environmental” to clarify claim

1. Support for this amendment can be found, for example, at paragraph [0009] which describes: “[t]he end result is consistent, reliable, and meaningful information for measuring and managing environmental performance to communicate internally, to the public and to governmental agencies, the progress that is made in a broad spectrum of environmental areas across an entire enterprise.” Support for this amendment is also described at paragraph [0029] which states: “[d]epending on several factors, including the EMP database design, established environmental goals and measurement period, the limit of a certain criterion is set as a “high” or “low” limit.” As such, Applicants believe that no new matter has been added.

With respect to the step, “a program administrator setting performance criteria to capture performance information at specific times by a predetermined schedule in a system,” the Applicants point to paragraph [0009] in the specification for support. The specification describes that the management system “is provided with pre-planned reporting requirements that require reporting of specific information at specific times by a predetermined schedule to ensure capturing of key performance indicators and consistency in data reporting by operating as a global application requiring the same data from all reporting locations using the same definitions.” As such, Applicants believe that no new matter has been added.

With respect to the Examiner's rejection, the Examiner cited to column 3, lines 28-30 and claim 1 step (a) of Beldock. Column 3, lines 28-30 indicate that "the program defines criteria which must be met by a participant in the program in order to be in compliance." Claim 1 step (a) discloses "defining a plurality of environmentally beneficial criteria and storing said criteria in a database." These citations do not teach the step at issue.

Generally, Beldock discloses a data processing method and system that provides an environmental certification program intended to improve the image and profit of companies that meet environmental responsibilities. Participants that satisfy program criteria are given the privilege of using a certification mark in connection with their goods and advertising. (Col. 3, Lines 1-27). The Examiner points out in Beldock that the "program defines criteria which must be met by a participant in the program in order to be in compliance." This is different from amended claim 1, which describes "a program administrator setting performance criteria to capture performance information at specific times by a predetermined schedule in a system."

Further, nowhere in Beldock is the amended step disclosed. The Applicant would like to point out that Beldock discloses an extendible yearly periods for achieving certification, but does not teach "a program administrator setting performance criteria to capture performance information at specific times by a predetermined schedule in a system." For example, in Beldock during year 1 of certification, the participant must implement and report to the organizers of the program three profitable environmental measures (PEMs) in order to maintain the privilege of using the certification mark in conjunction with its goods in advertising. (Col. 4, Lines 54-59). What Beldock discloses is that the participant, at some time during the first year, report three PEMs, which is different from "setting performance criteria to capture performance information at specific times by a predetermined schedule."

In another example, during year 2, the organizers of the environmental certification program undertake onsite verification of participant's implemented PEMs (Col. 4, Lines 64-66). Similar to the above example, what Beldock discloses is that the participant, at some time during the second year, undergo an onsite visit to verify the second year requirements. This is different from "setting performance criteria to capture

performance information at specific times by a predetermined schedule,” as recited in amended claim 1.

The Examiner also cited to claim 1 step (a) of Beldock. Step (a) discloses “defining a plurality of environmentally beneficial criteria and storing said criteria in a database.” This step is different from the step at issue in amended claim 1; which recites “a program administrator setting performance criteria to capture performance information at specific times by a predetermined schedule in a system.”

Nowhere in Beldock, at the cited paragraphs or elsewhere, is there any reference to “a program administrator setting performance criteria to capture performance information at specific times by a predetermined schedule in a system.” As such, the paragraph and claim step cited by the Examiner do not teach the step of “a program administrator setting performance criteria to capture performance information at specific times by a predetermined schedule in a system,” as recited in amended claim 1.

With respect to the step, “the system storing the performance information in a database as a function of an area of interest of the performance information,” the Examiner cited to column 3, lines 56-57, column 4, lines 41-43, column 5, lines 55-5, claims 1 and 15 step (c) of Beldock as teaching this step. However, the cited text of Beldock discloses storage of data in a database without any reference to “an area of interest of the performance information,” as recited in claim 1. Specifically, column 3 lines 56-57 disclose “a computerized data processing system 10 evaluates and tracks the compliance of a participant in the environmental certification process.” Column 5 lines 55-57 Beldock disclose “[a]t the end of each year following certification, the participant reports its compliance with the program to the organizers of the program for input into the database 12, and the database evaluates the participant's compliance.” In both examples the cited text does not disclose “an area of interest of the performance information.” Referring to claim 1 step (c) of Beldock: “upon compliance with said first group of said plurality of criteria, recording a first compliance in the database and notifying the participant that the participant is permitted to use the certification mark.” In claim 15 step (c) Beldock discloses: “means for recording a first compliance in the database and notifying the participant that the participant is permitted to use the

certification mark upon compliance with said first group of said plurality of criteria.” The cited claim language in Beldock does not disclose “an area of interest of the performance information,” as recited in claim 1.

Nowhere in Beldock, at the cited paragraphs or elsewhere, is there any reference to “the system storing the performance information in a database as a function of an area of interest of the performance information,” As such, the paragraph and claims cited by the Examiner do not in fact teach the step of “the system storing the performance information in a database as a function of an area of interest of the performance information,” as recited in amended claim 1.

With respect to the step, “the system monitoring the performance information for conformance with the performance criteria as it is stored and flagging the performance information that does not conform with the performance criteria so that a report can be generated, either automatically or manually, as a function of at least a portion of the currently stored performance information,” the Examiner cited to column 3 lines 56-57, lines 60-65 and claims 1 and 15 step (f).

Generally, the cited paragraph discloses the evaluation and tracking of the compliance of participants in a certification program. Based on compliance data (or lack thereof) the system evaluates the continued certification of the participants and outputs whether the participants are in compliance or not in compliance. Cited claims 1 and 15 step (f) disclose “upon failure to comply with said second group of said plurality of criteria by said first date, recording a non-compliance in the database and notifying the participant that the participant is decertified,” and “means for recording a non-compliance in the database and notifying the participant that the participant is decertified upon failure to comply with said second group of said plurality of criteria by said first date.”

At the very least, none of the cited text in Beldock teaches or discloses “flagging the performance information that does not conform.” Beldock simply teaches the notification of participants for compliance or non compliance. More specifically, Beldock discloses a computerized data processing system that evaluates and tracks compliance of a participant in the environmental certification program. The data processing system includes a database and a microprocessor for manipulating the database. During

operation, compliance data is entered into the database and based upon the compliance data (or lack thereof), the system evaluates the continued certification of a participant in the program. The system outputs whether the participant is in compliance or not and therefore certified or not certified. (Col. 3, Lines 55-66).

Nowhere in Beldock, at the cited paragraph and claims or elsewhere, is there any reference to “the system monitoring the performance information for conformance with the performance criteria as it is stored and flagging the performance information that does not conform with the performance criteria so that a report can be generated, either automatically or manually, as a function of at least a portion of the currently stored performance information.” As such, the paragraph and claims cited by the Examiner do not teach the step of “the system monitoring the performance information for conformance with the performance criteria as it is stored and flagging the performance information that does not conform with the performance criteria so that a report can be generated, either automatically or manually, as a function of at least a portion of the currently stored performance information,” as recited in amended claim 1.

With respect to the step, “the system providing notification when the performance information deviates from the performance criteria,” the Examiner cited to column 4 lines 40-43 and column 5, lines 55-57. Generally, the cited text discloses reporting PEMs to the organizers of the certification program to be stored in a database. At the end of each year following certification, the participant reports its compliance to the organizers of the program for input into the database and the database evaluates the participant’s compliance. Nowhere in the cited text does Beldock teach or disclose “providing notification when the performance information deviates from the performance criteria.” Beldock simply teaches notification of compliance or non compliance at the end of the year, without notifying the participant “when the performance information deviates.” As such, the paragraphs cited by the Examiner do not teach the step of “providing notification when the performance information deviates from the performance criteria,” as recited in claim 1.

With respect to the amended step, “the system accepting a plurality of forms from a plurality of sites at specific times by the predetermined schedule, each of the forms including instructions, definitions and performance information as a function of uniform data definitions,” the Applicants point to paragraphs [009], [0026] and [0005] of the specification for support. At paragraph [0009], the specification describes a system “provided with pre-planned reporting requirements that require reporting of specific information at specific times by a predetermined schedule to ensure capturing of key performance indicators and consistency in data reporting by operating as a global application requiring the same data from all reporting locations using the same definitions.” Paragraph [0026] describes “[i]nstructions and definitions used in completing the form are provided as part of the system so that those completing the forms know exactly what is required, eliminating any guesswork on their part, and those using the information reported in the forms understand it in the correct context.” Further support is found at paragraph [0005], which describes “[a] plurality of forms with instructions that require performance information as a function of uniform data definitions are accepted from multiple sites.” As such, Applicants believe no new matter has been added.

With respect to the Examiner’s rejection, the Examiner states that Beldock does not explicitly teach “the system accepting a plurality of forms from a plurality of sites, each of the forms including performance information as a function of uniform data definitions.” However, the Examiner cites to column 4, line 4 to column 5 line 53 of Beldock and to the general art of “Electronic Data Interchange” (“EDI”) to support the assertion that Beldock combined with the general art of “EDI” teaches the “collecting performance information data from a plurality of sites.”

Generally, the cited paragraphs disclose how a participant must implement and maintain a predefined number (group) of PEMs prior to being certified and thereafter implement and maintain a predefined number of additional PEMs at specified years after certification in order to maintain certification. (Col. 4, Lines 5-9). The PEMs are required to be initially implemented in a single facility then during a specified time period after initial certification, the PEMs are required to be implemented in a majority of the participant’s other operations. (Col 4, Lines 16-21). A company applies at year 0 to



become a participant in the program and upon acceptance, but prior to certification, the participant must either: 1) Identify four presently implemented PEMs, 2) Implement four PEMs, or 3) Provide a combination of identification and implementations. (Col. 4, Lines 30-40). Once the four year-0 precertification PEMs have been identified or implemented the participant is approved for certification and can use the certification mark with its goods. Additionally, the participant begins phasing in the four year-0 PEMs across its other operations. (Col. 4, Lines 43-50). During year 1 of certification, the participant must implement and report to the organizers of the program three profitable environmental measures (PEMs) in order to maintain the privilege of using the certification mark in conjunction with its goods in advertising. (Col. 4, Lines 54-59). During year 2, the organizers of the environmental certification program undertake onsite verification of participant's implemented PEMs (Col. 4, Lines 64-66). For the remaining years, the participant has a number of similar and related steps to complete and PEMs to implement in its various operations, which can continue indefinitely if the program is established as such. (Col. 5, Lines 5-32).

The Examiner further asserts that it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teaching to Beldock to "accept performance information in forms, to enable the use of data transfer means such as Electronic Data Interchange." However, none of the paragraphs cited by the Examiner disclose "the system accepting a plurality of forms from a plurality of sites at specific times by the predetermined schedule, each of the forms including instructions, definitions and performance information as a function of uniform data definitions," as recited in amended claim 1.

For example, Beldock discloses that a participant at some time during the first year report three PEMs. During the second year, for example, Beldock discloses that the participant at some time during the second year undergo an onsite visit to verify the second year requirements. Both of these examples and the cited text are very different from "the system accepting a plurality of forms from a plurality of sites at specific times by the predetermined schedule, each of the forms including instructions, definitions and performance information as a function of uniform data definitions," as recited in amended claim 1.

Nowhere in Beldock, at the cited paragraphs or elsewhere, is there any reference to “the system accepting a plurality of forms from a plurality of sites at specific times by the predetermined schedule, each of the forms including instructions, definitions and performance information as a function of uniform data definitions.” Nor would combining Beldock with “Electronic Data Interchange” result in the step of “the system accepting a plurality of forms from a plurality of sites at specific times by the predetermined schedule, each of the forms including instructions, definitions and performance information as a function of uniform data definitions,” As such, the paragraphs cited by the Examiner do not teach alone or in combination with “Electronic Data Interchange” the step of “the system accepting a plurality of forms from a plurality of sites at specific times by the predetermined schedule, each of the forms including instructions, definitions and performance information as a function of uniform data definitions,” as recited in amended claim 1.

Accordingly, because none of the text in Beldock, alone or in combination with “Electronic Data Interchange,” teach the steps of claim 1, it cannot be obvious in view of Beldock and Electronic Data Interchange, and the Applicants request that the rejection of claim 1 be withdrawn.

Claims 2-6, 9-13 and 15-18 are dependent claims that depend on amended independent claim 1 and consequently incorporate the limitations of independent claim 1. Applicants submit that claims 2-6, 9-13 and 15-18 are patentable by virtue of their dependency from independent claim 1 which is believed to be patentable for reasons set forth in the discussion above. Accordingly, favorable consideration of claims 2-6, 9-13 and 15-18 is requested.

Regarding independent claim 19, the Examiner asserted the same arguments presented in claim 1 with additional reference to Beldock at column 3, lines 28-30 and claims 1 and 15 step (a) with respect to the step: “monitor the performance information as it is stored for conformance against pre-established performance criteria set by a program administrator and flag the performance information that does not conform with the performance criteria so that a report can be generated, either automatically or manually,

as a function of at least a portion of the currently stored performance information in the plurality of databases.”

In an effort to make the claim clearer, Applicants amend claim 19 to include similar amendments as in claim 1. For the same arguments set forth above, Applicants believe that amended claim 19 does not represent new matter and is based on subject matter in the specification as filed.

Amended independent claim 19 recites as follows:

19. A system for monitoring environmental performance information comprising:

a processor;

a data storage device operably connected to the processor, the data storage device further comprising a number of individual storage units for storing a predetermined type of data;

a program executable by the processor to:

accept a plurality of forms from a plurality of sites at specific times by a predetermined schedule, each of the forms including instructions, definitions and performance information as a function of uniform data definitions;

store the performance information in a database as a function of an area of interest of the performance information;

monitor the performance information at the specific times by the predetermined schedule as it is stored for conformance against pre-established performance criteria set by a program administrator and flag the performance information that does not conform with the performance criteria so that a report can be generated, either automatically or manually, as a function of at least a portion of the currently stored performance information in the plurality of databases;

provide notification when the performance information deviates from the performance criteria.

Referring to the Examiner’s additional reference to Beldock, at column 3 lines 28-30, Beldock discloses that “the program defines criteria which must be met by a participant in the program in order to be in compliance.” Claims 1 and 15 step (a) disclose: “defining a plurality of environmentally beneficial criteria and storing said criteria in a database; and means for defining a plurality of environmentally beneficial

criteria and storing said criteria in a database.” Beldock does not teach or disclose the amended step of: “monitor the performance information at the specific times by the predetermined schedule as it is stored for conformance against pre-established performance criteria set by a program administrator and flag the performance information that does not conform with the performance criteria so that a report can be generated, either automatically or manually, as a function of at least a portion of the currently stored performance information in the plurality of databases,” as recited in claim 19.

For the same reasons set forth above in claim 1 and 19, Applicants contend that Beldock alone and in combination with “EDS” does not teach claim 19’s system for monitoring environmental performance information, as claimed, and requests that this rejection of claim 19 be withdrawn.

Claims 20-24, 28-32 and 34-37 are dependent claims that depend on amended independent claim 19 and consequently incorporate the limitations of independent claim 19. Applicants submit that claims 20-24, 28-32 and 34-37 are patentable by virtue of their dependency from independent claim 19 which is believed to be patentable for reasons set forth in the discussion above. Accordingly, favorable consideration of claims 20-24, 28-32 and 34-37 is requested.

With respect to independent claim 38, the Examiner asserted the same arguments presented in claims 1 and 19. Applicants amend claim 38 to include similar amendments made in claims 1 and 19 in an effort to make the claim clearer. For the same reasons set forth above, Applicants believe that amended claim 38 does not represent new matter and is based on subject matter in the specification as filed.

Amended independent claim 38 recites as follows:

38. Computer executable process steps operative to control a computer, stored on a computer readable medium, for monitoring environmental performance information comprising the steps of:

accepting a plurality of forms from a plurality of sites at specific times by a predetermined schedule, each of the forms including instructions, definitions and performance information as a function of uniform data definitions;

storing the performance information in a database as a function of an area of interest of the performance information;

monitoring the performance information at the specific times by the predetermined schedule as it is stored for conformance against pre-established performance criteria set by a program administrator and flagging the performance information that does not conform with the performance criteria so that a report can be generated, either automatically or manually, as a function of at least a portion of the currently stored performance information in the plurality of databases;

providing notification when the performance information deviates from the performance criteria.

For the same reasons set forth above in claims 1 and 19, Applicants contend that Beldock alone and in combination with "EDS" does not teach claim 38's computer executable process stored on a computer readable medium for monitoring environmental performance information, as claimed, and requests that this rejection of claim 19 be withdrawn.

Claims 39-43, 46-50 and 52-55 are dependent claims that depend on amended independent claim 38 and consequently incorporate the limitations of independent claim 38. Applicants submit that claims 39-43, 46-50 and 52-55 are patentable by virtue of their dependency from independent claim 38 which is believed to be patentable for reasons set forth in the discussion above. Accordingly, favorable consideration of claims 39-43, 46-50 and 52-55 is requested.

The Examiner rejected dependents claims 7, 25 and 44 under 35 U.S.C. §103 (a) as being unpatentable over Beldock (U.S. 6,490,565) as applied to claims 1, 19 and 38 above and further in view of Petke et al. (U.S. 6,163,732).

Claims 7, 25 and 44 are claims that depend on amended independent claims 1, 19 and 38 and consequently incorporate the limitations of their respective independent claims. Applicants submit that claims 7, 25 and 44 are patentable by virtue of their

dependency from independent claims 1, 19 and 38 which are believed to be patentable for reasons set forth in the discussion above. Accordingly, favorable consideration of claims 7, 25 and 44 is requested.

The Examiner rejected dependents claims 8, 26 and 45 under 35 U.S.C. §103 (a) as being unpatentable over Beldock (U.S. 6,490,565) as applied to claims 1, 19 and 38 above and further in view of Barrett et al. (U.S. 6,029,144).

Claims 8, 26 and 45 are claims that depend on amended independent claims 1, 19 and 38 and consequently incorporate the limitations of their respective independent claims. Applicants submit that claims 8, 26 and 45 are patentable by virtue of their dependency from independent claims 1, 19 and 38 which are believed to be patentable for reasons set forth in the discussion above. Accordingly, favorable consideration of claims 8, 26 and 45 is requested.

The Examiner rejected dependents claims 14, 33 and 51 under 35 U.S.C. §103 (a) as being unpatentable over Beldock (U.S. 6,490,565) as applied to claims 1, 19 and 38 above and further in view of Smalley et al. (U.S. 6,067,549).

Claims 14, 33 and 51 are claims that depend on amended independent claims 1, 19 and 38 and consequently incorporate the limitations of their respective independent claims. Applicants submit that claims 14, 33 and 51 are patentable by virtue of their dependency from independent claims 1, 19 and 38 which are believed to be patentable for reasons set forth in the discussion above. Accordingly, favorable consideration of claim 14, 33 and 51 is requested.

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In light of the above amendments and remarks, Applicants believe that all rejections have been overcome. Reconsideration and allowance of claims 1-55 is respectfully requested.

An early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

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